

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

TIEN SIN JIANG,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

No. C06-0027Z

ORDER

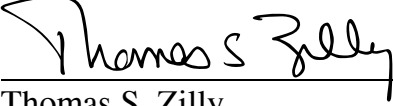
The Court has considered petitioner's motion for certificate of appealability, docket no. 21, and hereby GRANTS petitioner's motion for a certificate of appealability on the following issue:

Whether Mr. Jiang is entitled to habeas relief on the basis that he was denied his Fifth Amendment right to due process and his Sixth Amendment right to trial by jury when he was sentenced pursuant to the mandatory guidelines system based upon factual findings that were not made by a jury and not made using the standard of proof beyond a reasonable doubt.

Reasonable jurists could debate whether Mr. Jiang was denied his Sixth Amendment right to trial by jury and his Fifth Amendment right to due process. The issues presented are "adequate to deserve encouragement to proceed further." See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003) (citing 28 U.S.C.A. § 2253). The Court DENIES petitioner's motion for a certificate of appealability on the remaining issues presented in his motion, docket no. 21.

1 IT IS SO ORDERED.

2 DATED this 1st day of November, 2006.

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5 Thomas S. Zilly  
6 United States District Judge  
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